

## 21 C.J.S. Courts § 131

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### Courts

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### III. Creation and Constitution; Officers of Courts

#### B. Nonjudicial Officers and Employees Generally; Interpreters

##### 3. Interpreters; Facilitators

### § 131. Determination as to competency

[Topic Summary](#) | [References](#) | [Correlation Table](#)

#### West's Key Number Digest

West's Key Number Digest, [Courts](#)  56

**The determination of the competence of an interpreter is a matter entrusted to the sound discretion of the trial court.**

An interpreter's qualifications are subject to proper inquiry by the parties.<sup>1</sup> The determination of the competence of an interpreter is a matter entrusted to the sound discretion of the trial court.<sup>2</sup> In the absence of abuse, the exercise of such discretion ordinarily will not be reviewed.<sup>3</sup> The interpreter's competency may be attacked by direct or cross examination, or by independent testimony,<sup>4</sup> and when attacked it may be reestablished by further examination or by independent evidence.<sup>5</sup>

A critical consideration in the appointment of an interpreter for a witness who does not speak in the English language is a matching of the level of communication skill of the witness with that of the interpreter.<sup>6</sup> When dealing with foreign languages, there are differences in dialects

that could render translations unreliable or even unintelligible.<sup>7</sup> Similarly, communicating with witnesses who have profound hearing and/or speech impairments can be complicated by the variety of "signing" systems that are in use.<sup>8</sup>

The competency of an interpreter should be determined prior to the time when the interpreter enters on the discharge of his or her duties<sup>9</sup> although if the competence of the interpreter becomes an issue after he or she commences duties, it may be raised at that time.<sup>10</sup> Fundamental question with respect to court interpreters is normally one of qualification, not of veracity or fidelity, and, in the absence of special circumstances, the latter qualities are assumed.<sup>11</sup>

## CUMULATIVE SUPPLEMENT

### Cases:

Defendant, whose alleged native Chinese language was Taishanese, did not show that trial judge erred in finding that Taishanese interpreter, who had recently retired as staff interpreter for New York Supreme Court, was a competent Taishanese interpreter; defendant had no difficulty answering approximately 625 questions posed by his counsel on direct examination, and it would have been impossible for defendant to have answered those 625 questions if he did not understand the interpretation. [Commonwealth v. Lee](#), 134 N.E.3d 523 (Mass. 2019).

### [END OF SUPPLEMENT]

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### Footnotes

1 Ariz.—[State v. Mendoza](#), 181 Ariz. 472, 891 P.2d 939 (Ct. App. Div. 1 1995).

2 D.C.—[Mesa v. U.S.](#), 875 A.2d 79 (D.C. 2005).

Ind.—[Cruz Angeles v. State](#), 751 N.E.2d 790 (Ind. Ct. App. 2001).

3 R.I.—[State v. Deslovers](#), 40 R.I. 89, 100 A. 64 (1917).

#### **Prison employee**

The court's selection of a prison employee to act as interpreter to assist a habeas petitioner of Mexican descent who did not speak or understand English was an abuse of discretion; the interpreter was not certified to act as an interpreter, the only qualifications noted were her ability to speak Spanish and her presence, the interpreter was not given suggested instructions on interpreting in a courtroom setting and the interpreter's understanding of her role was not verified, and the interpreter was not required to agree in writing to comply with the court interpreters' code of professional responsibility.

- 4 Ga.—*Ramos v. Terry*, 279 Ga. 889, 622 S.E.2d 339 (2005).
- 5 Colo.—*People v. Braley*, 879 P.2d 410 (Colo. App. 1993).
- 6 Cal.—*People v. Ong Git*, 23 Cal. App. 148, 137 P. 283 (1st Dist. 1913) (overruled on other grounds by, *Correa v. Superior Court*, 27 Cal. 4th 444, 117 Cal. Rptr. 2d 27, 40 P.3d 739 (2002)).
- 7 N.Y.—*Matter of Luz P.*, 189 A.D.2d 274, 595 N.Y.S.2d 541 (2d Dep't 1993).
- 8 N.Y.—*Matter of Luz P.*, 189 A.D.2d 274, 595 N.Y.S.2d 541 (2d Dep't 1993).
- 9 Ariz.—*State v. Burris*, 131 Ariz. 563, 643 P.2d 8 (Ct. App. Div. 2 1982).
- 10 Colo.—*People v. Braley*, 879 P.2d 410 (Colo. App. 1993).
- 11 Cal.—*People v. Aranda*, 186 Cal. App. 3d 230, 230 Cal. Rptr. 498 (2d Dist. 1986).
- U.S.—*U.S. v. Solorio*, 669 F.3d 943, 87 Fed. R. Evid. Serv. 557 (9th Cir. 2012).

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